

INTEGRATION OR ISOLATION?

NORTHERN KOSOVO IN 2014 ELECTORAL LIMBO

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SUMMARY

As the first anniversary of the Brussels Agreement comes around in April, northern Kosovo has yet to reach a new balance. It remains in transitory limbo, subject to pulling-and-tugging that has both security and political implications. This paper analyses the bleak outlook for implementing the agreement during 2014, with looming elections in Serbia, Kosovo and the EU. It focuses on the latest developments with regard to the Association of Serbian Municipalities in Kosovo, cautions against a number of risks and suggests how to reduce the persistent potential for inter-ethnic conflict. The usefulness of constructive ambiguity that has helped Belgrade and Prishtina to get closer is rapidly diminishing. It is essential to establish communication between Prishtina and northern Serbs, to ensure that all sides see the value of implementing planned power-sharing arrangements.

INTRODUCTION

The core of the Brussels Agreement, signed on 19 April 2013 between Belgrade and Prishtina, was that Serbia *de facto* would assent to Kosovo's territorial integrity in exchange for a supra-municipal structure for Kosovo Serbs. Following negotiations led by EU foreign policy chief Catherine Ashton, Serbia agreed to cede administrative control over the north and,

effectively, abandon ambitions for partition. In return, it was given the ability to exercise influence legally, through the Association/Community¹ of Serbian municipalities (ASM). This body, to be composed by a core of four northern municipalities as well as six Serb-majority municipalities in the rest of Kosovo, was intended to diffuse the underlying territorial dispute, but it could also serve as the vehicle for a new political mobilisation. It is, therefore, essential to fathom which factors could push the ASM towards gradual inter-ethnic cooperation, or cement the old territorial and communal divide – this time *within* Kosovo.

In our first [joint paper](#), we predicted that northern Kosovo was moving towards a new state of imbalance after the November 2013 local elections, which unfolded according to our realistic and pessimistic scenarios. The main fear now is that forthcoming elections in Serbia, Kosovo and at the EU level will keep it off-balance, allowing the situation to simmer without resolution.

The ASM was supposed to have been created in mid-December 2013, following two meetings between the prime ministers of Serbia and Kosovo – on 5 December 2013 to conclude all arrangements and 13 December 2013 to officiate its launch.² After significant delays to the constitution of new municipal authorities in the north, the ASM was on the agenda for the first meeting of the two prime ministers on 27 January but not on 12 February. In this last meeting before they turn to their election campaigns, the two prime ministers managed to narrow down some of the differences on the court structure in the north.

The two prime ministers insist they have come a long way since the dialogue started, but with elections in Serbia now slated for 16 March, for the EU parliament in May and Kosovo in autumn, all sides seem to have accepted that they are unlikely to reach agreement on how to get the ASM off the ground in 2014. That

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leaves northern Kosovo in a dangerous limbo, without clarity about which laws apply and with the danger that the progress that has been made in normalising relations could be reversed.

KOSOVO'S FIRST ELECTIONS IN THE NORTH

After years of snubbing, the first Kosovo-wide municipal elections which took place in November 2013 paved the way for the beginning of the north's inclusion into Kosovo, given the cushion that the emerging ASM provides.

It was not hard to predict that the overall atmosphere during the election would be characterised by fear and violence. We expected boycotts and sporadic incidents, but not the forceful intimidation of candidates and voters that took place in front of polling stations in Northern Mitrovica on 3 November. To widespread surprise, the light security presence stood idly by as a group of masked men stormed three polling centers in Mitrovica around dusk. As we predicted for such a scenario, the OSCE withdrew its staff from across the north, closing all polling stations prematurely. Security forces justified their inaction by the sensitive political climate, arguing that intervention or a larger presence would have been counter-productive.

Elections were repeated in three polling centres in Northern Mitrovica on 17 November, this time with an unprecedented security presence, made up of EULEX, KFOR, Kosovo Police, civil protection and Serbian security forces in plain clothes. Elections were conducted in a safe climate, although their fairness has been widely disputed. The Serbian government-backed Serbian Civic Initiative (*Gradjanska Inicijativa Srpska-GIS*) won nine out of the ten Serb-majority municipalities (the exception being Strpce in southern Kosovo). GIS's victory means that political bodies favouring boycott have been marginalised for now, although disputes over symbolism will provide fuel for continuing opposition to the process. Belgrade now fully controls the new municipalities, some of which had been run by parties in opposition in Serbia. Serbia's influence will only increase after

Kosovo's national elections in autumn (most likely in September 2014).³

Progress has been further complicated by (a) Krstimir Pantic's resignation before assuming the office of the Mayor of northern Mitrovica, (b) the assassination of Dimitrije Janicijevic, an assembly member and former candidate for mayor from the ranks of the Serbian Liberal Party on 15 January, and (c) the arrest of Oliver Ivanovic, one of the most serious contenders for mayor of Mitrovica (who lost to Pantic in the second round on 17 November but had certified to run in repeat elections in February 2014). These events have created a sense of fear and foreboding, suggesting significant challenges ahead.

RESISTANCE TO SYMBOLISM OR CONTINUATION OF STATUS DISPUTE?

The hope behind the Brussels Agreement is that the north would slowly integrate into the Kosovo legal system, given the added protection of the ASM. But it is still not clear if the ASM is more likely to facilitate interethnic dialogue and forge a sustainable *modus operandi* between Prishtina and the northern Serbs, or instead motivate renewed ethnic mobilisation.

The very first weeks since the elections have indicated a difficult road ahead in dismantling the emotional barriers to northern Serbs' embrace of the Kosovo system. Albanians expected to see the removal of the barricade on the bridge over the River Ibër/Ibar dividing Mitrovica. Meanwhile, the first hurdle was to agree the constitution of the northern municipalities, with discussions hamstrung by disputes over applicable law and use of symbols. Before his resignation, the newly elected mayor of northern Mitrovica, Pantic, continued to insist that elections were neutral as to national status and refused to accept any status-related symbols.⁴ EU officials sought a compromise on the visibility of symbols, but were unequivocal about the applicability of Kosovo law in the north, as foreseen by the agreement. Forging such a compromise was so difficult that the inaugural sessions were held just hours before the legal deadline (11 January in the evening) when the mayors and councillors agreed to sign the oath based on

Kosovo's law only after state insignia were covered by stickers (although the Central Election Commission's logo had been visible in election material). Similarly, the municipal assemblies elected chairs of the assembly just hours before the deadline expired, again in the evening (10 February). The Head of the Kosovo Delegation Team and Deputy Prime Minister, Edita Tahiri met on the same day with the mayors of three northern municipalities and the Chair of the Assembly of the Municipality of Northern Mitrovica.⁵ The meeting was reportedly very constructive.

A *modus operandi* has yet to be reached between the northern municipalities and the Kosovo institutions, and last-minute progress will depend on high-level political impetus. Resistance over state insignia may lead to lack of cooperation and potential deadlock for eventually they will need to receive pay slips, issue ID cards, and the like. In the meantime, the need to compromise on every detail suggests the need for frequent intervention by the EU. In this regard, the European Parliament elections, followed by the procedure for nominating the new Commission (including the High Representative) will create a vacuum that may be exploited by local power-holders. By the time a new Commission is ready to resume mediation, the Kosovo leadership will already be in election mode, hence any new bout of dialogue will have to wait for the new government.

'Neutral' implementation enables the north to cooperate and develop working relations with Prishtina but also to reject getting closer, nurturing the expectation that, one day, conditions will be ripe for autonomy or even partition. If the municipalities and the ASM invest most of their efforts in the second objective, neutrality may become too problematic to neglect as working relations start to resemble perishable goods with an expiry date. Whether the ASM moves in this direction will in good part depend on how it is regulated.

After continuous tussles, Serb municipalities are likely to show some minimum consent to operate within Kosovo's legal system, but refuse implementation wherever an explicit reference to statehood is made and insist on the absence

of state insignia. They may also prefer to apply Serbia's laws when disbursing ASM funds, in line with Belgrade's policy to name the newly elected mayors the heads of temporary councils – a formula existing only only in Serbia's administration.

Public rhetoric among northern Serbs has exhibited two types of reactions. One states that the municipalities are key to preventing the authorities in Prishtina from extending their rule to the north. The politicians who subscribe to this discourse openly emphasise the question of national status and privately admit that they do so in order to please their voters.⁶ The second category argues that status is beyond their role as municipal politicians, and it behooves them to focus on local affairs only. A disciple of the latter stream is Ivanovic, who said that "elections were not intended to show that Serb citizens have recognised the state of Kosovo, but to ensure a local leadership that would be legal and legitimate and internationally recognised".⁷

A SELF-SUFFICIENT ADMINISTRATION

The key to the ASM's regulation is the statute, defining its establishment, decision-making, funding and the functioning of all its bodies,⁸ as well as its relationship with Prishtina, the ministry of local government administration and other municipalities. In mid-June 2013, the two prime ministers agreed over the composition of the ASM's initial management team,⁹ made up four northern Serbs who were practically proposed by Serbia and have been working closely with the Belgrade team ever since.¹⁰ The initial task of this panel was to develop the ASM's draft statute, but this task has been largely left to the Government of Serbia. At the same time, Prishtina has prepared its own draft statute based on the statute of the existing Association of Municipalities in Kosovo, which it submitted to Brussels in early December. The fact that the Association was pushed off the agenda is an indicator how different the two drafts are.

In parallel, Belgrade plans to change its constitution to transfer Kosovo's 'provincial' competences to the ASM, effectively turning it into part of its own legal framework. Analysts in Kosovo worry about the agreement's reference to constitutional law (point 2), for example,

which does not exist in Kosovo's legal vocabulary. Informally, EU officials argue that this is a result of ill-drafting by its staff. Accidental or intentional, this is a major source of ambiguity on which Belgrade has capitalised, while it goes far beyond Prishtina's red line.

According to the Brussels Agreement, the ASM will have a statute, president, assembly, council and board. It is unlikely to have any directly elected bodies as requested by Serbia. The backbone of its representative legitimacy is to be composed of municipal councillors, delegated upwards to the ASM. The main political figure personifying the body is its President, along with the board composed of the mayors of member municipalities.

One area of controversy is over the size of the ASM secretariat and its competences. It is foreseen that the ASM will have around ten staff, but is unclear what prevents it from hiring more.¹¹ Indeed, sizeable funding is likely to transform officials in charge of sectoral portfolios into ministerial-like positions.¹²

The Kosovo leadership has often assured its public that this body cannot replace the existing municipal assemblies and that they cannot transfer their own competences to the association, effectively transforming it into a third layer of governance in Kosovo.¹³ The draft statute that Prishtina put forward gives competences to "create funds, open offices for representation and to open public institutions".¹⁴ The ASM's competences must be harmonised with those of the central government, with the risk that they may clash as well as be in contradiction with Kosovo laws.

Prishtina's position is that the list of four major competences – overview over education, health, urban planning and economic development – is exhaustive and no additional ones will be considered. However, point 5 of the agreement leaves the door open for transferring further competences. While Prishtina insists it does not intend to hand over any additional responsibilities, it may need to make more concessions to Belgrade in exchange for full normalisation of bilateral relations. Public enterprises (mines and utilities, for example) may end up on the negotiation

table with pressure to put them under the purview of the ASM.¹⁵

A FUTURE RICH PROVINCE?

Legal and political power always depends on finances, and much remains to be settled. Kosovo is to transfer equivalent funding to the northern municipalities, as it does with municipalities across the country. The north receives an additional perk, as all imports that have northern Kosovo as their final destination pay customs duty into a separate fund used only for the development of this territory. The EU has also promised a fund of €38.5 million for the north's development for the first year, contingent on its cooperation with Prishtina.

What has not been defined sufficiently until now are Serbia's financial transfers to Kosovo Serbs, around €500 million equivalent to one-third of Kosovo's budget. Serbia has allocated the same amount for 2014, with the difference that funding is intended to go through the ASM.¹⁶ According to the draft budget of Serbia for 2014, this amount is planned for 'operation of state and local government, public enterprises and institutions in the province'.¹⁷ As Kosovo's law on local finances does not allow such income for the ASM, Serbia may have to transfer its funds to municipalities. The agreement foresees that Serbia's funding may only be used for municipal competences,¹⁸ which is very wide considering the extensive decentralisation that Kosovo has undergone.

The agreement also provides that all funding is to be conducted transparently and with full oversight of Prishtina, but different interpretations hide several snags that are bound to materialise in the future. The Serbian side will insist that Prishtina does not have the ability to stop the flow of money or to change the purpose which Belgrade or the ASM determines.¹⁹ Although not foreseen in the agreement, the effective ability to disburse massive funds vests immense power in the body and could potentially transform it into an institution with policy-making power in areas that were not agreed upon in the agreement.

Ultimately, the agreement is nebulous. The way Belgrade grants the ASM legal legitimacy and the cover which it creates to grant its funding

may potentially ensure that the body responds to Belgrade more than it does to Prishtina.²⁰ The absence of financial links between the ASM and the Kosovo government is worrisome for it foregoes a major source of interaction and mutual dependence. Prishtina has not allotted funding for the ASM, but only for municipalities.²¹ As a result, the reliance exclusively on Belgrade for funding dictates the major line of loyalty. Instruments need to be created to encourage the mayors to cooperate with Prishtina, giving them control over the resources they are entitled to, while ensuring that the capital is not able to use financial leverage to condition the Serb-majority municipalities. If the ASM gets all the funding it needs from Belgrade and the EU, then the Serbs of northern Kosovo will have few incentives to reach out to Prishtina.

CENTRIPETAL OR CENTRIFUGAL TENDENCIES?

The degree to which the north is ready to embrace Kosovo institutions remains the major question. Viewed positively, the ASM is a major compromise which increases the clout of Kosovo Serbs in Kosovo in exchange for their integration. But viewed negatively, the ASM could be a new vehicle for the north's ongoing centrifugal tendency, acting as Belgrade's hand-brake over Kosovo's functionality. Instead of promoting reconciliation, it could provide fuel for continuing inter-ethnic friction, depending on how a number of issues play out.

The main issue to watch over the long run is whether the ASM will bring Kosovo Serbs closer to Prishtina or rather drive them away from it. Bringing them closer should not mean eroding their protection or requiring their assimilation, but at least boosting cooperation and integration into a single political community. If the Serb community insists on maintaining a separate polity, Prishtina fears that this signifies its desire for eventual partition. The inclusion of six southern municipalities²² into the ASM is likely to contribute to its integrationist character,²³ but it may drive the southern municipalities away from Prishtina.

If partition is staved off, the creation of an unruly entity *within* Kosovo is still a possibility. On

several formal and informal occasions, Belgrade has assured Prishtina that it does not intend for the ASM to be disruptive, and that it wants it to be part of the solution. But Prishtina sees Belgrade's direct involvement as a source of alarm not comfort. If mediation is required for everyday implementation, the talks may end up forcing a genuine dialogue with the northern Serbs. But for this to happen, more Serbs who were not involved when the agreement was struck will need to be persuaded that cooperation is in their interest.

AVERTING FUTURE ENTRAPMENTS

The agreement's obscurity was useful when it came to forging a settlement in April 2013, but ambiguity has since become a growing obstacle to its implementation. Creativity helped accomplish an agreement which was then inconceivable, but it is now hampering its implementation.

The northern Serbs fear a unitary state where their small numbers may not warrant sufficient protection. The lack of trust and inter-ethnic interaction increases the demand for added features of protection, some of which raise alarm bells in Prishtina. But if Kosovo does not agree to further protective arrangements, northern Serbs may see an additional reason to withdraw into disobedience or boycott the next parliamentary elections. Short of an evolution in its stance towards Kosovo's statehood, the GIS can hardly assume the ministerial posts that the constitution guarantees to the Serb community. It is essential to introduce a continuous dialogue between Prishtina and the northern Serbs and to make sure that all sides see the value of implementing the planned power-sharing arrangements.

As Serbia goes to elections in March and Kosovo in autumn, the radical rhetoric is likely to increase in volume. The EU's envoy to Kosovo Samuel Žbogar will have to ensure that symbols do not raise emotions in a way that prevents implementation of the agreement on the ground. In addition, EU elections may mean that Berlin will once again have to take over the task of settling high-level bilateral disputes until there is a new High Representative for whom mediating in the Balkans is a high priority.

Kosovo Serbs widely believe that Belgrade is not sincere when it calls on them to take part in elections, but does so half-heartedly to please the EU. As Belgrade and Prishtina disagree on the applicable legal framework, Serbia may instruct the mayors to disregard some of its cooperation with Prishtina. This mismatch of views could create a potential vacuum of services (e.g. Serbian courts closed while the opening of new courts is delayed) and a limbo which can be utilised by groups ready to use force.

The perception of an infinite dialogue without real breakthrough is tiresome as well as dangerous. The mediator will need to keep the sides tied to a long-term dialogue process, but to develop it in stages, to create the impression of stages and milestones that are completed. If progress comes too slowly, impatience may build, contributing to a sense of simmering frustration.

Given continued disagreement on a range of points and the three elections in 2014, northern Kosovo's transitory period will last longer than needed and risks becoming a new status quo, prone to continuous pulling and tugging. Short of progress, Serbia may continue to revive some of the institutions it closed (eg the temporary council as a de facto municipal structure). By corollary, parties may come to

the dangerous conclusion that if they wish to influence the process, they should try to change circumstances on the ground.

There is a widespread fear among Kosovo Albanians that the evolving compromise is likely to render Kosovo dysfunctional, given the growing perception that Belgrade and Kosovo Serbs are jointly working to prevent the consolidation of Kosovo statehood. Prishtina assumes that technical cooperation will eventually become more meaningful, but it also fears that the Association may be potentially disruptive and introduce dual governance as a legal subterfuge against its sovereignty. Moreover, Kosovo Albanians increasingly question the credibility of their leaders to negotiate on their behalf, fearing their vulnerability to international pressure. A feeling of being encircled, and a perception that Kosovo is stuck on its northern front, may induce an overall feeling of mobilisation.

This paper has identified a number of dangers lurking in the future, but it is also important to search for opportunities to relax the situation. Removing the barricade on the main bridge in Mitrovica would be the first step in that direction, under the condition that it is removed in cooperation with the Serb community and in a way that induces a sense of relief and normality.

¹ The words Association and Community are not synonymous although the agreement uses both labels to refer to the supra-municipal body to be created. We use them inter-changeably without expressing a preference of one over the other.

² Vesti Online. 13 November 2013. "Association of Serbian municipalities, as of 13 December".
<http://media.unmikonline.org/?p=28707>

³ Serbia's newly gained influence will extend to constitutional changes and Kosovo's vital legislation. This provision remains the main source of political power for ethnic communities, but since it is not related to the Association, it is outside the scope of this paper.

⁴ Krasniqi, Besnik. 4 December 2013. Serbia do referenca të veta ligjore në Statutin e Asociacionit. Koha Ditore, pp. 1,3.
<http://elibraria.org/assets/2013/12/2013-12-11-Serbia-do-referenca-t%C3%AB-veta-ligjore-n%C3%AB-Statutin-e-Asociacionit.pdf>

⁵ Koha. 10 February 2014. Tahiri: Asamblëtë në veri, sipas ligjeve të Kosovës (Tahiri: Municipal Assemblies in the North, as per Kosovo Laws). <http://www.koha.net/?page=1%2C13%2C174635>

⁶ Council for Inclusive Governance. 5 December 2013. Statement of a northern Serb in a roundtable under Chatham House rule of non-attribution, held in Brussels.

⁷ Zëri. 9 December 2013. The north, officially with Prishtina. Via UNMIK Media Monitoring.
http://www.newsmonitors.org/mon/index.php?option=com_content&view=article&id=3091:0830-report-09-12-2013&catid=34:morning&Itemid=53, p. 5.

⁸ Vecerje Novosti. 21 November 2013. KiM: Serbian institutions in six stages. <http://media.unmikonline.org/?p=29238>

⁹ The names were, Igor Kalamar, Ljubomir Maric, Dragan Jablanovic and Dejan Radojkovic. Xharra, Besiana. 15 June 2013. Merren vesh për ekipin e asociacionit. Zëri, p. 3.

¹⁰ Danas. 5 November 2013. Almost no one knows what it is about. <http://media.unmikonline.org/?p=28219>

¹¹ Official of the Kosovo Government. 11 December 2013. Personal Interview, Prishtina.

¹² Ahmeti, Arben. 27-28 November 2013. Tajvanizimi me zgjedhje (Taiwanisation with Elections). Tribuna, p. 2.
<http://elibraria.org/assets/2013-11-29-Tajvanizimi-me-zgjedhje.pdf>

¹³ Express. 27 February 2013. Thaçi: Asociacioni i Komunave serbe është vetëm një OJQ (Thaci: Association of Serb Municipalities is Only an NGO). <http://www.gazetaexpress.com/?cid=1%2C13%2C104812> (last accessed 27 February 2013).

¹⁴ Koha Ditore. 11 December 2013. Association of Municipalities With Serbian Majority.
http://www.newsmonitors.org/mon/index.php?option=com_content&view=article&id=3099:0830-report-11-12-2013&catid=34:morning&Itemid=53

¹⁵ Council for Inclusive Governance. 6 December 2013. Roundtable under Chatham House rule.

¹⁶ Zëri. 7 December 2013. Association of Serb Municipalities.
http://www.newsmonitors.org/mon/index.php?option=com_content&view=article&id=3089:saturday-report-07-12-2013&catid=38:sunday&Itemid=53

¹⁷ Vecernje Novosti. 26 November 2013. Belgrade holds the key to the cash register. <http://media.unmikonline.org/?p=29450>

¹⁸ Official of the Kosovo Government. 11 December 2013. Personal Interview, Prishtina.

¹⁹ Vecernje Novosti. 26 November 2013. Association of Serbian Municipalities.
http://www.newsmonitors.org/mon/index.php?option=com_content&view=article&id=3052:afternoon-monitor-26-11-2013&catid=35:afternoon&Itemid=53

²⁰ Ahmeti, Arben. 25 April 2013. Asociacioni nuk vepron jashtë ligjeve dhe Kushtetutës. Tribuna, p. 6.

²¹ Kosova Sot. 24 November 2013. Daçiç: Për finansimin e Asociacionit do të vendoset në dhjetor (Dacic: The financing of the Association will be decided in December). <http://elibraria.org/assets/2013-11-27-Da%C3%A7iq-P%C3%ABr-financimin-e-Asociacionit-do-t%C3%AB-vendoset-n%C3%AB-dhjetor.pdf>

²² Tanjug. 21 February 2013. Dacic elaborates on community of municipalities. <http://media.unmikonline.org/?p=10429>;
<http://www.tanjug.rs/news/77993/dacic-elaborates-on-community-of-municipalities.htm>

²³ Express. 27 February 2013. Thaçi: Asociacioni i Komunave serbe është vetëm një OJQ (Thaci: The Association of Municipalities is Only an NGO). <http://www.gazetaexpress.com/?cid=1%2C13%2C104812> (last accessed 27 February 2013).